

**EEOC TRAINING INSTITUTE**  
**Denver Technical Assistance Program Agenda**  
**August 22-23, 2006**

**Agenda Highlights:**

- ✓ A two-day hands-on investigative course
- ✓ Recent EEO legal developments
- ✓ How a jury decided an actual race discrimination case
- ✓ Retaliation and why you want to watch out for it
- ✓ An update on what's happening in Congress from SHRM's Director of Government Affairs
- ✓ Why mediation puts you in the driver's seat
- ✓ In-depth discussion of disability issues
- ✓ How to respond to a charge of discrimination
- ✓ For federal sector attendees: Information on motion practice and strategies for responding to an EEO claim.

**TRACK ONE**

**Day 1 - August 22, 2006**

8:00 - 8:30 am	<b>Registration</b>
8:30 - 8:45 am	<b>Welcome and Opening Remarks</b> <i>Patricia McMahon</i> , Program Analyst EEOC – Denver Field Office
8:45 - 10:00 am	<b>Recent Legal Developments in EEO</b> <i>Mary Jo O'Neil</i> , EEOC Phoenix Regional Attorney
10:00 - 10:15 am	<b>Break</b>
10:15 - 11:45 am	<b>Race Discrimination in the Workplace: How a Jury Decided an Actual Case</b> <i>Mary Jo O'Neil</i> , EEOC Phoenix Regional Attorney <i>Sandy Padegimas</i> , EEOC Trial Attorney, Phoenix District Office
11:45 - 1:00 pm	<b>Lunch</b> <b>Luncheon Speaker</b> <i>Chester V. Bailey</i> , District Director, EEOC – Phoenix District Office <i>Nancy Sienko</i> , Director, EEOC Denver Field Office
1:00 - 1:15 pm	<b>Break</b>

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**August 22-23, 2006 (cont)**

**TRACK ONE**

**Day 1 - August 22, 2006**

1:15 - 2:45 pm

**Retaliation: Yes, It Does Occur**

Why does retaliation still continue to be a problem for companies? Because, it can be difficult to recognize. Retaliation comes in many shapes and sizes. It can be blatant or subtle. And, even though an employer has won on the merits of discrimination, a reasonable cause finding can still be issued under retaliation. This session will provide valuable EEOC guidance on retaliation.

2:45 - 3:00 pm

**Break**

3:00 - 4:30 pm

**Maximizing Your Employment Mediation**

*Yvonne Gloria-Johnson*, ADR Coordinator, EEOC - Phoenix District Office

*Bill Berger*, Attorney

*Todd McNamara*, Attorney

You recently received a charge of employment discrimination and have accepted the opportunity to mediate the charge. Now what? This lively and interactive panel discussion by employment mediation experts will give you practical suggestions to get the most out of your mediation, dispel myths, help you be an effective advocate for your client, and address your concerns.

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**August 22-23, 2006 (cont)**

**TRACK ONE**

Day 2- August 23, 2006

- 8:00 - 8:30 am      **Registration**
- 8:30 - 9:30 am      **HR Government Update: Federal Public Policy Update**  
*Nancy Hammer*, Manager for Tax and Benefits – Government Affairs  
Department  
Society for Human Resources Management (SHRM)
- The US Congress and federal agencies have on their agendas many legislative and policy proposals and changes to current laws that directly affect the HR profession. This presentation focuses on several of these critical public policy issues, and their impact on HR professionals and their organizations.
- 9:30 - 10:15 am      ***Gulp*, I think I have an ADA issue (part one)**  
*Anjuli Kelotra*, EEOC Trial Attorney, Denver Field Office  
*Kim Rogers*, EEOC Trial Attorney, Denver Field Office
- The Americans with Disabilities Act (ADA) prohibits employers from discriminating against qualified individuals with disabilities and continues to baffle human resource professionals everywhere. Why? Because the ADA requires employers to consider providing a reasonable accommodation that removes any barriers an individual's disability creates so that the individual may enjoy the same employment opportunities that are available to persons without disabilities. But, what is a qualified individual with a disability and when is an accommodation not reasonable? The first part of this two-part session will teach the basics of ADA.
- 10:15 – 10:30 am      **Break**
- 10:30 – 12:00 noon      ***Gulp*, I think I have an ADA issue (part two)**  
*Anjuli Kelotra*, EEOC Trial Attorney, Denver Field Office  
*Kim Rogers*, EEOC Trial Attorney, Denver Field Office
- Now that you understand the basics of the ADA, how does this translate into real-life? The second part of this session is designed to give students a working knowledge of the ADA and provide real-life scenarios, taken from U.S. Supreme Court decisions. This session will cover mitigating measures (*Sutton v. United Airlines*), the analysis for manual tasks (*Williams v. Toyota*), bona-fide seniority systems (*Barnett v. U.S. Airways*), and direct threat (*Echazabel v. Chevron*).

12:00 - 1:00 pm

**Lunch**

1:00 - 2:30 pm

**CONCURRENT WORKSHOPS**

**How to respond to a charge of discrimination (Part One)  
(Designed for the private-sector employer)**

This hands-on workshop will provide a step-by-step outline on how the charge processing system works. Included will be information about what each form means, time limits, mediation and how the investigatory process works. Included will be information about EEOC's relationship with the state Fair Employment Practice Agency (FEPA) and how this relationship impacts EEOC's charge processing. Time will be allotted for questions.

**Motions Practice: Beyond Summary Judgment (Designed for the federal-sector employer)**

2:30 - 2:45 pm

**Break**

2:45 - 4:30 pm

**CONCURRENT WORKSHOPS (continue)**

**How to respond to a charge of discrimination (Part Two)**

Now that you understand what those forms are and when you can request mediation, it's time to move on to the investigation. Is there a right way and a wrong way to respond to a request for information? This panel discussion will feature investigators from the Denver Field Office who will discuss effective strategies on how companies can avoid pitfalls during the EEOC investigatory process. Included will be information on "surprise" EEOC findings such as record-keeping violations, like and related cause finding, and adverse inference.

**Agency Advocacy: How an Agency Prepares for and Responds to an EEO Claim**

**(Designed for the federal-sector employer)**

*Brian X. Bush, Air Force Academy*

An agency representative will discuss the strategies and tactics employed once an EEO complaint is filed against an agency. Information will be provided on how to prepare for an EEOC hearing, including discovery and motion practices and interviewing witnesses. Designed for federal managers, EEO counselors and investigators, federal union representatives and complainants' bar.

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August 22-23, 2006 (cont)**

**TRACK TWO - Hands-On Workshop  
Day 1- August 22, 2006**

- 8:00 - 8:30 am            **Registration**
- 8:30 - 8:45 am            **Welcome and Opening Remarks**  
*Chester V. Bailey*, District Director  
EEOC – Phoenix District Office
- 8:45 – 10:00 am        **Recent Legal Developments in EEO**
- 10:00 - 10:15 am       **Break**

**HANDS-ON WORKSHOP - Bernie Wright v. ABC Corporation - to be presented in parts over both days of the seminar.**

This workshop for advanced participants only. No instruction on the federal anti-discrimination laws will be provided during this two-day course. Attendees with a solid understanding of EEO laws should attend.

Over the two-days of the seminar, participants will investigate a discrimination complaint. Mr. Bernie Wright works for the ABC Corporation. He has alleged that he has been subjected to institutionalized racism which led to the denial of a promotion. He alleges that when he complained about the perceived racism, he was retaliated against.

Participants in this course will review witness statements and documentary evidence to determine the validity of the complaint. Further, participants will be asked what steps, if any, the company could have taken to defuse the situation.

Fact patterns will be distributed during the workshop and *participants* are asked to attend both days. Homework will be assigned at the end of Day One. Participants are expected to complete the homework and come prepared for class on Day Two.

- 10:15 - 11:45 am       **Bernie Wright v. The ABC Corporation - Part 1**  
*Patricia McMahon*, Program Analyst  
EEOC - Denver Field Office  
In this session, the class will learn the fundamentals of how to conduct an internal investigation.
- 11:45 - 1:00 pm       **Lunch**  
**Luncheon Speaker**  
*Chester V. Bailey*, District Director, EEOC – Phoenix District Office  
*Nancy Sienko*, Director, EEOC Denver Field Office

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**TRACK TWO - Hands-On Workshop  
Day 1- August 22, 2006**

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|----------------|--|
| 1:00 - 1:15 pm | <b>Break</b>   |
| 1:15 - 2:45 pm | <b>Bernie Wright v. The ABC Corporation - Part 2</b><br><i>Patricia McMahon</i> , Program Analyst<br>EEOC - Denver Field Office<br>In this session, the class will review Complainant's testimony and complaint summary.   |
| 2:45 - 3:00 pm | <b>Break</b>   |
| 3:00 - 4:30 pm | <b>HANDS-ON WORKSHOP - Bernie Wright v. The ABC Corporation - Part 3</b><br><i>Patricia McMahon</i> , Program Analyst<br>EEOC - Denver Field Office<br>In this session, the class will finish reviewing testimony from Complainant's witnesses and determine what questions should be asked of alleged harasser. Students will receive homework. |

**TRACK TWO - Hands-On Workshop  
Day 2 - August 23, 2006**

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| 8:00 - 8:30 am   | <b>Registration</b>  |
| 8:30 - 10:00 am  | <b>HAND-ON WORKSHOP - Bernie Wright v. The ABC Corporation - Part 4</b><br><i>Patricia McMahon</i> , Program Analyst<br>EEOC - Denver Field Office<br>In this session, the class will go over homework assignment and begin reviewing testimony from Respondent witnesses. |
| 10:00 - 10:15 am | <b>Break</b>   |
| 10:15 - 11:45 am | <b>HANDS-ON WORKSHOP: Bernie Wright v. The ABC Corporation - Part 5</b><br><i>Patricia McMahon</i> , Program Analyst<br>EEOC - Denver Field Office<br>In this session, the class will continue to review the testimony of management officials.                            |

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**August 22-23, 2006 (cont)**

**TRACK TWO - Hands-On Workshop**  
**Day 2 - August 23, 2006 (cont)**

1:00 - 1:15 pm      **Break**

11:45 - 1:00 pm      **Lunch**

1:00 - 2:30 pm      **HANDS-ON WORKSHOP: Bernie Wright v. The ABC Corporation - Part 6**

*Patricia McMahon*, Program Analyst  
EEOC - Denver Field Office

In this session, the class will finish reviewing the testimony of all witnesses and begin discussing the documentary evidence.

2:30 - 2:45 pm      **Break**

2:45 - 4:30 pm      **HANDS-ON WORKSHOP: Bernie Wright v. The ABC Corporation - Part 7**

*Patricia McMahon*, Program Analyst  
EEOC - Denver Field Office

In this session, the class will determine credibility, and the merits of the complaint. This will be an open discussion about what, if anything, the company did wrong and whether the situation could have been avoided.